

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 278

Call to Order: By **CHAIRMAN MIKE WHEAT**, on March 31, 2005 at 3:00 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Rep. Jim Keane, Chairman (D)
Sen. Jerry W. Black (R)
Rep. Dave Gallik (D)
Sen. Ken (Kim) Hansen (D)
Rep. Ralph Heinert (R)
Rep. Joe McKenney (R)

Members Excused: None.

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 278, 3/30/2005
Executive Action:

CHAIRMAN WHEAT opened the hearing on SB 278 by providing a history of this bill and the process it has been through. He opened the floor to individuals wishing to speak on the bill's behalf.

Holly Franz, Montana Society of CPAs, explained the work they have done on the bill. She stated that they are trying to do a more simplified process which has been adopted by many other states. She urged the Committee to adopt the House amendments.

Cathy Van Dyke, Member, Montana Board of Public Accountants, stated that **SEN. BALYEAT**'s amendments take many practitioners out of their jurisdiction. She commented that their main concern is that if the CPAs practice out of their jurisdiction, there needs to be a recourse in place.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.2}

Jane Egan, Executive Director, Montana Society of CPAs, asserted that they have worked very hard on this bill to make sure the public is protected. She stressed the importance of getting licensed as early as possible.

SEN. JOE BALYEAT, SD 34, BOZEMAN provided two documents to the Committee. The first document is titled, "Uniform Accountancy Act". The second document sets out his amendments to this bill.

[EXHIBIT\(ccs68sb0278a01\)](#)

[EXHIBIT\(ccs68sb0278a02\)](#)

SEN. BALYEAT discussed the exhibits to the Committee. He spoke about specific portions in detail and described why they are important.

{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 20.5}

REP. McKENNEY posed the question, "Suppose there is a rogue CPA that is not doing his/her job adequately, if the Board receives a complaint, what can they do about the problem?"

SEN. BALYEAT directed **REP. McKENNEY** to the Uniform Accountancy Act on Page 23-2. He explained this portion to him.

SEN. HANSEN asked Ms. Van Dyke why **SEN. BALYEAT**'s amendment is not possible if it falls within the Uniform Accountancy Act.

Ms. Van Dyke asserted that it is not in law anywhere. The UAA is simply a document, rather than statute. Ultimately the law will direct them what to do, not the UAA. It was just an idea that his amendment will not work.

REP. GALLIK asked Ms. Franz to show him where it says that other states are required to take disciplinary action. He stated that he did not want to get in a debate on the legal standing of the UAA.

Ms. Franz stated that she did not have the answer to that question. She referred the question to Mark Elliot Cadwallader, Legal Counsel, Department of Labor & Industry.

Mr. Cadwallader attested that they are not required to do so. He explained that the statute varies in all other 49 states.

REP. GALLIK wished to refer the question to **SEN. BALLYEAT**.

SEN. BALLYEAT directed **REP. GALLIK** to Page 23-2 of the UAA, which has a recommendation of language for this situation. He commented that he is not sure who has this language in place. He would, however, recommend that Montana adopt this language.

{Tape: 1; Side: A; Approx. Time Counter: 20.5 - 34.8}

REP. HEINERT asked Ms. Van Dyke how the Board would deal with a situation in which they receive a complaint about a CPA from Montana practicing in another State.

Ms. Van Dyke referred the question to Mr. Cadwallader.

Mr. Cadwallader asserted that if there is a complaint of professional misconduct, there is an initial screening panel. There is a process in which they examine if there is probable cause for the hearing, or if someone is blowing something out of proportion.

REP. HEINERT questioned why Montana cannot expect the same reciprocal process from other states.

Mr. Cadwallader stated that each state has different individual laws. He is not aware of other states adopting this UAA verbatim. He commented that the UAA is not legislation, but rather a theoretical framework.

REP. HEINERT wished to know if, in fact, Montana would not have legal recourse to charge a licensee from another State, under the current amendment being proposed.

Mr. Cadwallader stated that the Board would have power over licensees and applicants under this amendment. It would take further legislation to give them more authority.

{Tape: 1; Side: A; Approx. Time Counter: 34.8 - 41.1}

SEN. HANSEN requested that Mr. Cadwallader comment on the statement that the Board does not have access to tax returns, according to **SEN. BALLYEAT**.

Mr. Cadwallader declared that tax returns are not limited to CPAs. The State Board does not regulate many tax preparation establishments in Montana.

REP. HEINERT inquired what other states are doing in regard to a similar problem as what is being discussed.

SEN. BALLYEAT asserted that 25 of the 50 States have adopted significant portions of the Uniform Accountancy Act. He added that approximately 10 more States are in the process of adopting language. He reiterated that in the 1970s, there was a huge push for national standards. He stressed the need for nation-wide standards. He commented that the UAA prefers national standards, rather than non-state protectionism.

REP. HEINERT questioned if what **SEN. BALLYEAT** was trying to do with this amendment was to follow the same path as 25-35 other states and adopt the language in this document.

SEN. BALLYEAT clarified that only a handful of these 25-35 states have gone beyond that and obtained a permit to practice.

REP. HEINERT asked Ms. Van Dyke how much of a problem this has been annually.

Ms. Van Dyke claimed that it is such a grueling process that not many CPAs come from out-of-state.

REP. HEINERT wondered if they even know if they have had a problem in the past.

Ms. Van Dyke stated that they have gotten bad complaints; they are cognizant that there is a problem.

REP. HEINERT inquired if the complaints were due to the inability to meet standards.

Ms. Van Dyke responded by stating that is correct.

{Tape: 1; Side: A; Approx. Time Counter: 41.1 - 50.4}

SEN. BLACK asked Mr. Cadwallader about the number of complaints as well.

Mr. Cadwallader stated that Montana CPA firms have a process of peer review.

SEN. BLACK inquired into the number of complaints.

Mr. Cadwallader declared that the number is fairly low.

SEN. BLACK asked Ms. Egan about the substantial equivalency in other States.

Ms. Egan asserted that 25 other jurisdictions have passed laws similar to this bill.

SEN. BLACK wondered how many of those require permits.

Ms. Egan stated that she does not have that information. She believed that **SEN. BALLYEAT**'s information was most likely correct. She added that there are 37 states that have tax preparation in law.

REP. HEINERT wished for clarification on the issue of a permit. He wondered if the 20-page permit requirement would be necessary if **SEN. BALLYEAT**'s amendments are adopted.

Mr. Cadwallader stated that there would be a 20-page permit for Montanans who hold an office here. Those individuals practicing from out-of-state would have the option of obtaining the permit or not.

{Tape: 1; Side: A; Approx. Time Counter: 50.4 - 57.9}

MOTION/VOTE: **REP. KEANE** moved HOUSE AMENDMENTS BE ADOPTED. The motion passed 5-2 with **REP. HEINERT** and **REP. MCKENNEY** voting no.

{Tape: 1; Side: A; Approx. Time Counter: 57.9 - 60}

*SEN. HANSEN changed his vote to a "no" after the hearing. This did not affect the outcome.

ADJOURNMENT

Adjournment: 3:41 P.M.

SEN. MIKE WHEAT, Chairman

ANNIE GLOVER, Secretary

KIM LEIGHTON, Transcriber

MW/JK/ag

Additional Exhibits:

EXHIBIT ([ccs68sb0278aad0.TIF](#))